



# City of Tempe

MINUTES FOR THE CITIZENS ADVISORY COMMITTEE  
(CAC) MEETING

9:00 a.m. - 4:30 p.m. January 11, 2003  
Public Works Conference Room

## ATTENDANCE:

Rich Nolan, Accessibility Consultant

Todd Marshall, Developer

Maryann Miller, Tempe Chamber of Commerce

Bill Butler, Neighborhoods

Karyn Gitlis, Neighborhoods

John Kane, Architect

Roger Millar, Otak

Fred Brittingham, City of Tempe Planning

Arlene Palisoc, City of Tempe Planning

Mary O'Connor, City of Tempe Transit

Steve Venker, City of Tempe Planning

Darin Sender, Attorney, Planning Commission

Kathryn Heffernan, Parking Consultant

Grady Gammage, Attorney

Helen Stern, Neighborhoods

Darlene Justus, Neighborhoods

Scot Siegel, Otak

Cliff Mattice, City of Tempe Attorney

Bonnie Richardson, City of Tempe Transit

Grace Kelly, City of Tempe Planning

Bill Kersbergen, City of Tempe Planning

Others in attendance: Evelyn Hallman, Jenny Lucier, and Darlene Tussing.

**\*Any comment in bold type indicates that a consensus was reached to revise the language in the draft code.**

INTRODUCTION by Fred Brittingham

OVERVIEW by Roger Millar

HISTORY, PURPOSE & INTENT by Scot Siegel

## SINGLE FAMILY

- Otak (the consultants) looked at promoting infill and recommended duplexes, attached housing and accessory dwelling units. Otak heard back that the level of intensification recommended in the Single family districts is not appropriate or the right fit for Tempe. Then, Otak looked at development standards and setback variances typically approved and made modifications to reflect reality. For routinely-granted variances they made adjustments to the draft code. Otak heard people wanted to allow for front porches and the proposed code would allow for that. There is no attached housing, accessory dwelling units in single family zoning districts

## MULTI FAMILY

- Otak proposed an increase in density and height in multi-family areas to promote infill and intensification. They heard back this is not appropriate for Tempe. Instead, they provided a wider range of options and they proposed a new R-5 zoning district to allow 30 units per acre. An applicant could apply for that zoning. They would need to meet standards and go through public hearings. There is also a step-back requirement in multifamily zones when next to single family.

## COMMERCIAL

- Otak looked at shopping centers, and combined CCR, C-1, and C-2 into CSS. Mixed use is allowed in PCC commercial districts with a use permit. They proposed an increase in building height in CCD from 35' to 65', and an increase in height in PCC-1 from 30' to 35' and in PCC-2 from 35' to 40'. They heard setbacks, lot dimensions and other standards are impediments to good development. Setback requirements are reduced so that buildings can be set on the street.

#### MIXED USE

- Otak heard Tempe wants to promote mixed use development in the right places. Currently MU-1, MU-2 are the mixed use zoning districts and MG has limited standards. They proposed each district – MU-1, MU-2 and the new MU-3 -- with standards that have similar densities and building heights as the corresponding mixed use zones so they could be used together in a planned development.
- Key to the city's plan and strategy to implement a plan of smart growth.

#### PROCEDURES

- Procedures have changed. It was very difficult to understand who was the decision-making body. They tried to make it clear where a use permit goes and who hears the permit. Otak heard from the development community they wanted flexibility with certainty. They proposed codes that are prescriptive and provided more options in setbacks. They propose flexibility in the code and code requirements that have options, e.g. landscaping. There is a specific requirement for landscaping in parking lots and then, there's the option to create a shade canopy in parking areas; it is up to the applicant to prove it works. Tried to design document to make it easier to navigate, and easier to use.

#### OTHER NEW CHANGES:

- Created new zone districts but have not rezoned land. New districts are R-5, MU-3, and MU-4 and exist as options.
- Took out "guest quarters" initially, but then, put it back in as an allowed use in AG districts.
- Bed and Breakfast is allowed in single family with use permit.
- New cellular towers, regardless of height, require a use permit.
- Home Occupation – deleted requirement for commercial parking.

#### DISCUSSION OF GUEST QUARTERS, ACCESSORY DWELLINGS & ACCESSORY STRUCTURES

- Concern about accessory dwellings allowed in AG only. Proposed code will not allow accessory dwellings but will allow guest quarters, which is the way it is today.
- **Need to add definition of guest quarters back in.**
- **Need to change table to say, no accessory dwellings allowed in single family or AG districts.**
- Are Accessory dwellings permitted in Pedestrian Overlay District in single family? No.
- **Section 3-402 – Revise definitions of Accessory structures, accessory buildings and uses. Cite examples, e.g. garage, workshop, playroom.**

#### HOME OCCUPATION

- Concern was expressed that if you allow accessory buildings in R-1 zoning districts, an entrepreneur may use it for business. The code should say you cannot access it through alley. We need to define what is acceptable other than noise, odor and glare. Could add examples of what is acceptable and unacceptable. We should proceed with caution in restricting uses.
- Concern with home occupations such as auto body repair. Staff explained that auto body repair is not an allowed home occupation. When the city gets a complaint, Code enforcement goes to the house

and if that car is not registered to that property owner then it is considered a commercial use and they are cited.

- **In Section 3-408 take G “no offensive noise” and make it Item A.**
- **May want to make an “Intent” section for Home Occupations.**

#### SINGLE FAMILY GARAGE SETBACK ISSUE

- Having a garage in front makes it prominent. We want to encourage use of back half of lot for garage.
- Makes sense to allow garage in a 3' setback if pushed back. I can understand not wanting 25' high garage in setback and we should not have a situation where the garage envelope sits next to residential next door. It should be garage next to garage.
- Detached garages in the rear setback would be something other than in the rear half of the lot.
- **Need to craft language to grant flexibility in 3-402 to allow garage in rear setback (not next to Single family).**
- **Change setback chart to show this. Table 4-202 A under front yard – “building at setback x” and under “garage at setback y”.**
- **Write “Intent” section and make note under Table 4-202 A to make it clear that the intent is to give 5' relief in front yard setback granted for front porch.**

#### DIFFERENCE BETWEEN ACCESSORY BUILDING AND STRUCTURE

- What is the difference between accessory structure and building? Height and square footage.
- **Need to clarify difference of accessory structure and accessory building in definitions.**
- **In Applicability statement, describe difference between accessory structure and building.**

#### MULTI FAMILY DISTRICT ISSUES

- Maple–Ash Neighborhood has pressure from commercial along University and Mill Avenue. Want to preserve residential character, and streetscape and would like to see parcels maintained of original subdivision. It started as single family and has evolved to multi family. Residents would like to maintain front setbacks, height, spaces between buildings. Important tool is keeping existing setbacks and parcels as they are now. I like the idea of adding porches and the proposed development standards changes. We'd like to see a firming up of side yard setbacks and prevention of lot assemblage.
- Can you make a re-plat a public hearing? You can make platting a public hearing, but that is not appropriate for the entire city. Could we limit it to plats in specific zoning or an overlay district? Yes. City attorney says the issue of lot assemblage would be addressed in zoning more than in the re-plat issues.
- We understand the historic character of the neighborhood is being degraded by assemblage and think that an Historic Overlay district would help with that. Neighbors feel it will get lost in the Pedestrian Overlay District, the Specific Area Plan, Transportation Plan and the General Plan.
- Does Multi-family require use permit for accessory dwelling unit? No. It is permitted. Concern was expressed about single family areas zoned multi family. Accessory dwelling units up to 600 s.f. are permitted in multi family properties. The proposal would allow a single family home on a multi family zoned property who has a duplex to add an accessory dwelling unit. This proposal is not as much of a concern as assemblage of parcels to build the maximum number of units. Historic Overlay is the best option, though not received well in Maple/Ash.
- It was suggested you could legally limit replatting in specific areas. Problem with that is the people against historic overlays would be against limiting replatting (assemblage).

- Conflict between wanting to eliminate layers of regulation as much as possible, but property owners want protection as well. For accessory dwelling units in multi family, 600 s.f. may be too restrictive. As proposed, you can have a single family home and the number of units allowed by density and an additional accessory dwelling unit up to 600s.f. in area.

#### LIVE – WORK

- Concern that live-work is allowed in a multi family zoning. A 400-unit apartment complex could potentially have businesses in most units which would mean two employees travelling to and parking to each unit daily. We were thinking of it for incentivizing new projects not for existing development.
- **We need to differentiate between existing and new development and define number of people allowed.**
- **When looking at live-work, ADA issues should be addressed.**
- **In “Purpose” and “Applicability” section of “live-work”, discuss how parking and interface with street should be designed.**

#### PROCESS

- Legal nonconforming uses in current ordinance can expand up to 25%. Proposed code does not allow uses to expand. Attorneys stated that most cities in the valley allow for some percentage of expansion. In other cities, problem is heavy industrial expansions in areas changing to office. Should leave room for expansion otherwise could doom a business to become a marginal business.
- **Leave nonconforming use up to 25% in the code.**
- **CAC wants uniform appeal process.**
- **Pedestrian signs should be addressed**
- Matrix of who hears appeals (Section 6-103) is confusing.
- Powers and Duties of boards and commissions are scattered throughout. Staff has revised this.
- Relationship of Hearing officer and Board of adjustment goes round and round as being interchangeable.

#### PUBLIC MEETING, PUBLIC HEARING AND NEIGHBORHOOD MEETINGS.

- Preliminary review was added and neighborhood meeting was added early on in the code rewrite process.
- Neighbors are concerned that variances, use permits and site plans no longer require neighborhood meetings as they did in an earlier draft.
- Attorneys concerned this requires neighborhood meetings for building permits.
- There are a lot of issues that do not impact neighborhood or you end up having neighborhood meeting for everything.
- Put “intent” in the section for neighborhood meeting. Developers view it as more layers, beauracracy, paperwork and money. The original intent of the neighborhood meeting was that anything that required a public hearing would require a neighborhood meeting early on in the process. If your warehouse is in the middle of an 100-acre industrial subdivision it takes a public meeting with the neighborhood.
- In other cities, you negotiate with staff what applications need neighborhood meetings.
- Discussion of difference between neighborhood meeting (meant to be informal) and public hearing (posted notice, notification by mail to owners within 300' & newspaper notice with hearings by board).
- Glendale and Chandler have good citizen participation programs. Should look at other cities and decide at what level neighborhoods should be involved.
- Could send out notice “if you want to hold a meeting, contact developer at.....”.

- **We will research other cities' public participation programs, craft language and send it to all CAC members to comment.**
- Neighborhood chairman needs more lead time than 14 days to get the neighborhood board together. Signs should be maintained. Now signs can be taken down. City posts the sign and someone needs to be responsible to maintain the hearing sign. But a neighbor could sabotage the developer's project if neighbors tear the sign down to delay a hearing.
- Need clarification on Redevelopment Review Commission. It is in the city code.
- **Appeals – need to revise language to make all board hear appeals within 15 or 30 days from date of board decision instead of 7, 10, 15 and 30 days.**
- Reconsideration – If it is non-appealable it is a major change. P&Z Commission went through Robert's Rules and the reconsideration is usually requested by applicant after hearing or boarding member at hearing. It should stay in there.
- On public hearing notification for neighborhood associations, is it 300'? By law it is 300' but staff usually goes beyond that.

#### SIGNS

- **Need to allow for pedestrian signs – sandwich boards and portable signs should be allowed in pedestrian areas.**
- Significant events list Grand opening signs. They should be separate. Grand Opening and Going Out of Business happen once for a business and should be separate from significant events such as "we are now open for lunch" or "we have new management" signage.
- There are 16,000 licensed businesses in Tempe. Changing the significant event policy for all at one time would mean signs everywhere. We have received council direction on this and significant event language will stay the same.
- **There is no section for "brand identification signs" in the new code. Need to add it.**

#### OTHER ISSUES

- Otak proposed an applicant could request to rezone from mixed use anywhere in the city. Is everyone comfortable with that? CC and PCC1 & PCC-2 would also be allowed to have mixed use. What about pubs in mixed use areas? No objections.
- **Need to change "clinic" be more clear in table on p. 27 to match table on p. 33.**
- **Change p. 51, Section 3-409 to add RO to allow live-work.**
- **Revise Section 4-602E to allow on case-by case basis.**
- Discussion of flexibility of incentives and creating options. Should call variances something else. You shouldn't have to seek a variance to do something that is greater than.
- Two CAC members suggested changing RO to allow a 30' height increase.
- **Strike Section 4-7-220 A. 4 "political signs shall not exceed 6 feet in area or 8 feet in height"**
- **Section 4-7-213 "Create an entry identification sign" category or strike Section 4-7-213 1.**
- **Staff needs to look at "Advertising copy" in definition.**

#### PEDESTRIAN OVERLAY DISTRICT

- **Revise language in Pedestrian Overlay District , Section 5-106 B. – more than 5 feet, should read "not less than 5 feet".**
- In Multi- family districts, same height, setbacks and densities, except within 1500' of light rail station.
- If you look at buildings on Broadway, and require 50% ground level be street facing and transparent, it over designs these buildings. We need to give people incentives.

- Transit Staff discussed the Northwest Area Planning Process. Neighbors did not want another Checker Auto on University to happen again. I propose the area near rail to take advantage of pedestrian orientation. By doing this we are telling people what we are trying to achieve. We're looking at moving standards out of Ped Overlay District and into design Standards.
- Discussed issues and concerns with creativity in an urban environment /pedestrian environment. Ordinance deals with conflicts such as retention. It is difficult to design (how to encourage infill vs. scaring development away)
- Parking interim between today and long term needs to be addressed. Could build parking you need today and when parking demand is reduced (after light rail in place and functioning for a number of years) could build more commercial on those parking areas.
- Interim uses have impacts on neighbors, crime, redevelopment impacts.
- Needs to be larger critical masses for businesses to open up. They need to locate on arterials and can't survive under too many parking and design restrictions. Decreased minimum and maximum parking ratios in Pedestrian Overlay District assumes parking demand will decrease, but it may take a while for demand to decrease. You could start off with parking lots that discourage people to walk in front of large lots. You have to make the big leaps. While in transition, you have to balance policy.
- **Section 5-111: Design issues need to be revised/addressed..**
- Change height in R3R – base zoning says 30'. Should be left alone at 15'.
- Pedestrian Overlay District Table 5-108 B & Base Zoning standards Table 4-202B should show heights of R3R as 15', R5 at 50' and R3 in POD should be 30' not 35'.
- Section 5-107 A.1. Prohibited uses in light rail stations, e.g. "sales, repair of motor vehicles". What about boutique car dealerships? The more you allow auto-opportunity businesses, the less you allow light rail to succeed.

#### OTHER ISSUES

- Reconsider the appeal process. If hearing officer takes action, the applicant is the only person who can appeal it. Proposed code says any property owner within 300' can appeal it. CAC member disagreed with that saying any person could be aggrieved.
- **Revise Section 6-802 Hearing Officer -- Who may appeal—"Any person aggrieved....."may appeal instead of "any person within 300' of subject site...may appeal".**

#### SUMMARY AND CONCLUSION

- We will have a website to post draft in two weeks available for public review and comment. CAC will have 10 days to turn in their comments.

MEETING ADJOURNED AT 4:20 P.M.